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11 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 United States

15 v.

16 TERREN S. PEIZER,

17 Defendant.

2:23-CR-000089-DSF

GOVERNMENT'S EX PARTE APPLICATION
FOR AN ORDER MODIFYING DEFENDANT'S
CONDITIONS OF RELEASE

18 The United States of America, by and through its counsel of record,
19 the United States Attorney for the Central District of California and
20 Assistant United States Attorney Ali Moghaddas and Trial Attorneys
21 Matthew Reilly and Della Sentilles, hereby files this ex parte
22 application seeking an order to modify Defendant Terren S. Peizer's
23 conditions of release following his conviction.
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1 DATE: July 1, 2024

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3 Respectfully submitted,

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5 E. MARTIN ESTRADA
6 United States Attorney

7 MACK E. JENKINS
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/
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11 GLENN S. LEON
12 Chief
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14 /s/
15 MATTHEW REILLY
DELLA SENTILLES

16 Attorneys for Plaintiff
17 UNITED STATES OF AMERICA
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1 The United States hereby requests as follows:

- 2 1. Following Defendant Terren S. Peizer's recent conviction on
3 three counts of securities fraud and insider trading, the
4 government moves to modify defendant's conditions of release to
5 conform with the changed circumstances of this case. After
6 conviction, defendant now carries the burden of establishing
7 that he is not a flight risk and the statute presumes a
8 convicted felon should be incarcerated pending sentencing. See
9 18 U.S.C. § 3143(a)(1). While the government does not seek
10 incarceration at this juncture, it asks that defendant be
11 returned to the bond conditions under which he was originally
12 released following indictment. These conditions contain three
13 important components not included in his current bond that
14 ensure his continued appearance before this Court for
15 sentencing: limitations on his travel, a curfew, and location
16 monitoring. These prophylactic measures are necessary to
17 reasonably ensure defendant's continued appearance for the
18 proceedings in connection with this prosecution. § 3142(c).
- 19 2. Defendant was originally indicted in February 2023. (Dkt. 1).
20 After his initial appearance, he was released on bond with a
21 number of financial and additional conditions of release. (Dkt.
22 9.) Relevant here, defendant's travel was restricted to this
23 district and Puerto Rico (where defendant also resides),
24 defendant was permitted to travel to other districts with the
25 approval of Pretrial Services, defendant was subject to location
26 monitoring, and under a curfew set by Pretrial Services. (Id.)
- 27 3. Ultimately, defendant's financial conditions were modified to
28 include a \$3 million bond secured by \$2 million in cash from

1 defendant and \$1 million secured by the residence of third party
2 surety. (Dkt. 45.) Initially, in July 2023, on defendant's
3 unopposed application, the Court modified defendant's conditions
4 of release to permit defendant to "travel within the continental
5 United States, without curfew restrictions, with notice to and
6 permission from Pretrial Services and without further order from
7 the Court. Court permission is only required for international
8 travel as well as for travel to Alaska or Hawaii." (Dkt. 63.)
9 Then, in October 2023, on defendant's unopposed application, the
10 conditions were further modified to "remove Mr. Peizer's curfew
11 restriction and Location Monitoring device requirement." (Dkt.
12 86.) The current conditions of release do not facially require
13 that defendant obtain approval from Pretrial Services for travel
14 outside of the continental United States.¹

15 4. On June 21, 2024, the jury found defendant guilty on all counts
16 charged in the First Superseding Indictment. (Dkt. 323.)

17 5. This materially changed the circumstances for defendant. He
18 faces statutory maximum sentences of 25 years on Count One and
19 20 years on Counts Two and Three. Defendant's anticipated
20 recommended guideline sentencing range will be substantial based
21 on the more than \$12.5 million loss amount. He also faces
22 significant financial exposure in terms of fines, forfeiture,
23 and potential restitution.

24 6. Under §3143(a)(1), as relevant here, "the judicial officer shall
25 order that a person who has been found guilty of an offense and
26

27 ¹ See Dkt. 88 at 1 ("Travel is restricted to the continental
28 United States unless prior permission is granted by Supervising
Agency to travel to a specific other location.")

1 who is awaiting imposition or execution of sentence . . . be
2 detained, unless the judicial officer finds by clear and
3 convincing evidence that the person is not likely to flee[.]”
4 If such a finding can be made, the conditions of release should
5 be fashioned consistent with §3142(b), (c). Under
6 §3143(c) (1) (B), the Court is required to fashion “the least
7 restrictive further condition, or combination of conditions,
8 that [the Court] determines will reasonably assure the
9 appearance of the person as required[.]” The statute
10 contemplates a number of conditions, such as specific
11 restrictions on travel, a curfew, and “any other condition that
12 is reasonably necessary to assure the appearance of the person
13 as required[.]” (Id. (iv), (vii), and (xiv).)

14 7. In light of the significant potential sentence facing defendant,
15 his access to resources to enable a potential flight, his
16 multiple residences (including on an island in the Caribbean
17 Sea), and frequent travel, restoring the original conditions of
18 release will provide the necessary assurance that defendant does
19 not flee and appears as necessary for the remaining steps in his
20 case before this Court.

21 8. Ensuring that defendant is required to obtain permission from
22 Pretrial Services before traveling outside of either the Central
23 District of California or Puerto Rico will provide a measure of
24 oversight on defendant’s whereabouts and patterns of travel that
25 is not currently required by his bond conditions. Location
26 monitoring and a curfew will also serve as an important
27 deterrent on any attempted flight as the supervising officers
28 will be positioned to quickly identify unapproved travel by

1 defendant and provide a set mechanism for confirming his
2 whereabouts.

3 9. The parties previously met and conferred on the government's
4 request and were unable to reach a resolution. Defendant is
5 likely to argue that these conditions are onerous, unnecessary,
6 and exceed what is necessary to ensure his appearance. However,
7 defendant ignores the material change in his circumstances.
8 While he may have complied to date with the conditions of his
9 release, this predated his conviction. He is now facing a
10 sentencing hearing and a potential significant term of
11 incarceration that presents serious risk of changing the
12 calculus for the defendant as to his continued compliance.
13 Defendant vigorously fought this prosecution and perhaps
14 believed he would be acquitted at trial. Now that the jury has
15 rendered its verdict, defendant's prior compliance is a less
16 compelling data point for assessing his future behavior,
17 particularly his continued appearance for these proceedings.
18 And given the access to resources that defendant enjoys, if he
19 remained unencumbered in his domestic travels and free from
20 location monitoring or a regular curfew, defendant would pose a
21 significant risk of flight.

22 10. The government's proposed conditions - which defendant was
23 able to conduct his business and life under from March to July
24 2023 before they were initially amended - provide a tailored
25 approach to ensuring defendant's appearance at sentencing and
26 other proceedings without being any more restrictive than
27 necessary.
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1 11. The government has met and conferred with defendant
2 concerning this application. Defendant intends to oppose the
3 government's application. The parties have agreed that
4 defendant shall have two business days to file a written
5 opposition to the government's application. The parties
6 respectfully request that the Court wait until defendant is able
7 to file his written opposition before ruling on this matter.

8 12. For these reasons, the government respectfully requests
9 that the Court restore defendant to his original conditions of
10 release and require that his travel be limited to the Central
11 District of California and Puerto Rico (unless otherwise pre-
12 approved by Pretrial Services), he be subject to a curfew, and
13 he is placed back on location monitoring.